

## **SECTION XIII AQUIFER PROTECTION DISTRICT**

### **13.1 Authority and Purpose**

Pursuant to RSA 674:16-21, the Town of Stratham adopts an Aquifer Protection District and accompanying regulations in order to protect, preserve and maintain potential groundwater supplies and related groundwater recharge areas within the Town.

### **13.2 Definitions**

**Animal Feedlot:** A commercial agricultural establishment consisting of confined feeding areas and related structures used for the raising of livestock.

**Aquifer:** For the purpose of this ordinance, aquifer means a geologic formation, group of formations, or part of a formation that is capable of yielding quantities of groundwater usable for municipal or public water supplies.

**Dwelling Unit:** Please review Section 2.1.19.

**Groundwater:** All the water below the land surface in the zone of saturation or in rock fractures capable of yielding water to a well.

**Groundwater Recharge:** The infiltration of precipitation through surface soil materials into the groundwater. Recharge may also occur from surface waters, including lakes, streams and wetlands.

**Leachable Wastes:** Waste materials, including solid wastes, sludge and agricultural wastes capable of releasing contaminants to the surrounding environment.

**Non-Conforming Use:** Please review Section 2.1.36.

**Recharge Areas** The land surface area from which groundwater recharge occurs.

**Site Coverage:** That portion of the entire parcel or site which, through the development of the parcel, is rendered impervious to groundwater infiltration.

**Solid Waste:** Any discarded or abandoned material including refuse, putrescible material, septage, or sludge, as defined by New Hampshire Solid Waste Rules He P 1901.03. Solid waste includes solid, liquid, semi-solid, or gaseous waste material.

**Structure:** Please review Section 2.1.55.

**Toxic or Hazardous Materials:** Any substance which poses an actual or potential hazard to water supplies or human health if such a substance were discharged to land or waters of the Town.

Hazardous materials include: volatile organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalies. Also included are pesticides, herbicides, solvents and thinners,

and such other substances as defined in the NH Water Supply and Pollution Control Rules, Section Ws 410.04(1), in the NH Solid Waste Rules He-P 1901.3(v), and in the Code of Federal Regulations 40 CFR 261 as amended.

### **13.3 DISTRICT BOUNDARIES**

#### **A. Location**

The Aquifer Protection District is defined as the area shown on the map entitled, "Aquifer Protection District", and is hereby adopted as part of the Town's official Zoning map. The Aquifer Protection District includes the area delineated by the groundwater mapping studies entitled, Lamprey/Exeter/Oyster River Study and Lower Merrimack/Coastal Study as prepared by the U.S. Geological Survey in 1990 and 1991 respectively. The Aquifer Protection District is an overlay district which imposes additional requirements and restrictions to those of the underlying district. In all cases, the more restrictive requirement(s) shall apply.

#### **B. Appeals**

Where the bounds of an identified aquifer or recharge area, as delineated, are in doubt or in dispute, any landowner aggrieved by such delineation may appeal the boundary location to the Planning Board. Upon receipt of a written appeal, the Planning Board shall suspend further action on development plans related to the area under appeal and shall engage, at the landowner's expense, a qualified hydrogeologist to prepare a report determining the proper location and extent of the aquifer and recharge area relative to the property in question.

### **13.4 USE REGULATIONS**

#### **A. Minimum Lot Size**

The minimum lot size within the Aquifer Protection District for each newly created lot shall be the same as allowed in the underlying zoning district. Larger lot sizes may be required depending on the soil-based lot sizing standards found within the Stratham subdivision regulations (Section 4.3).

#### **B. Maximum Site Coverage**

1) Within the Aquifer Protection-District, no more than twenty percent (20%) of a single lot or building site may be rendered impervious to groundwater infiltration. To the extent feasible, all runoff from impervious surfaces shall be recharged to the aquifer on-site. Recharge impoundments shall have vegetative cover for surface treatment and infiltration.

2) Maximum impervious site coverage may exceed twenty percent (20%) provided that the following performance standards are met and the plans are approved by the Planning Board or its designated agent:

a) The developer shall submit a stormwater drainage plan. Such a plan shall provide for the retention and percolation within the aquifer of all development generated stormwater runoff from a ten (10) year storm event, such that the post-development discharge volume to the aquifer is, at a minimum, equal to

the pre-development discharge to the aquifer. Furthermore, the stormwater drainage plan shall provide for the removal of oil and gasoline from parking lot runoff by the use of treatment swales, oil/gas separators or other devices, prior to retention and percolation of the runoff.

### C. Prohibited Uses

The following uses are prohibited within the Aquifer Protection Zone:

- 1) On-site disposal, bulk storage, processing or recycling of toxic or hazardous materials or wastes.
- 2) Underground storage tanks except as regulated by the NH Water Supply and Pollution Control Commission (Ws 411). Storage tanks, if contained within basements, are permitted.
- 3) Dumping of snow carried from off-site.
- 4) Automotive uses including: car washes, service and repair shops, junk and salvage yards.
- 5) Laundry and dry cleaning establishments.
- 6) Industrial uses which discharge contact type wastes on site.

### D. Conditional Uses

1) The following uses, if allowed in the underlying zoning district, are permitted only after approval is granted by the Planning Board:

- a) Industrial and commercial land uses not otherwise prohibited by Section 4, Item C of this Ordinance.
- b) Multi-family residential development.
- c) Sand and gravel excavation and other mining provided that such excavation or mining is not carried out within six vertical feet of the seasonal high water table.
- d) Animal feedlots and manure storage facilities provided the applicant consults with the Rockingham County Conservation District (RCCD) before such uses are established.

2) The Planning Board shall grant approval for those uses listed above only after it is determined that all of the following conditions have been met:

- a) The use will not detrimentally affect groundwater quality, nor cause a significant long term reduction in the volume of water contained in the aquifer or in the storage capacity of the aquifer;
  - 1) For the uses described in Sections 13.4.D, Item 1(a) and 13.4.D, Item 1(b), the Planning Board shall make this determination by applying the performance standard outlined in Section 13.4.B, Item 2(a);
- b) The use will discharge no wastewater on- site other than that typically discharged by domestic wastewater disposal systems;
- c) The proposed use complies with all other applicable provisions of this Section.

3) All conditional uses shall be subject to inspections by the Building Inspector or other agent designated by the Selectmen. The purpose of these inspections is to ensure continued compliance with the conditions under which approvals were granted.

### E. Permitted Uses

The following activities may be permitted provided they are conducted in accordance within the intent of this Ordinance:

- 1) Any use permitted by the underlying district of the Zoning Ordinance, except as prohibited in Section

13.4.C or regulated by Section 13.4.D of this Article.

2) Maintenance, repair of any existing structure, provided there is no increase in impermeable surface above the limit established in Section 13.4.B of this Article.

3) Agricultural and forestry uses, provided that fertilizers, pesticides, manure and other leachables are used according to best management practices as prescribed by the Rockingham County Conservation District, if applicable. All said leachables must be stored under shelter.

#### F. Special Exception for Lots of Record

Upon application to the Board of Adjustment, a special exception shall be granted to permit the erection of a structure within the Aquifer Protection District on a non-conforming lot provided that all of the following conditions are found to exist:

1) The lot upon which an exception is sought was an official lot of record, as recorded with the Rockingham County Registry of Deeds, prior to the date on which this Section was posted and published in the Town.

2) The use for which the exception is sought cannot feasibly be carried out on a portion or portions of the lot which are outside of the Aquifer Protection District.

3) No reasonable and economically viable use of the lot can be made without the exception.

4) The design and construction of the proposed use will be consistent with the purpose and intent of this Section. G. Non-Conforming Uses Any non-conforming use within the Aquifer Protection District shall comply to the provisions of Section 5.1 of the Zoning Ordinance (Nonconforming Uses).

### **13.5 MISCELLANEOUS PROVISIONS**

#### A. Location

Where the premises are partially outside of the Aquifer Protection Overlay Zone, potential pollution sources such as, but not limited to, on-site waste disposal systems shall be located outside and down gradient of the zone to the extent feasible.

### **13.6 ADMINISTRATION**

#### A. Application and Interpretation

The provisions of the Aquifer Protection District shall be applied and interpreted by the Planning Board.

#### B. Enforcement

The Board of Selectmen (or their duly designated agent) shall be responsible for the enforcement of the provisions and conditions of the Aquifer Protection District. S

## **SECTION XVIII AMENDMENTS**

### **18.1 PROCEDURE**

The provisions of this Ordinance may be amended or changed at any regular or special Town Meeting by a majority of the voters present as provided by the Revised Statutes Annotated of the State of New Hampshire.

## **SECTION XIX VIOLATIONS AND PENALTIES**

### **19.1 VIOLATIONS**

Upon information from the Building Inspector that the provisions of this Ordinance are being violated, the Board of Selectmen shall take immediate steps to enforce the provisions of this Ordinance as provided by the Revised Statutes Annotated of the State of New Hampshire.

### **19.2 PENALTIES**

Any person, firm or corporation violating any of the provisions of this Ordinance shall for each violation, upon conviction thereof, pay a fine of not more than one hundred (\$100.00) dollars for each day such violation shall exist.

## **SECTION XX VALIDITY**

### **20.1 DECLARATION**

If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect or impair any other section, clause, provision, or portion of this Ordinance.

### **20.2 DATE OF EFFECT**

This Ordinance, and amendments, shall take effect upon passage.